

**Executive Summary – Enforcement Matter – Case No. 42530**

**City of Kerrville**

**RN100844802**

**Docket No. 2011-1664-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Kerrville Wastewater Plant, 3650 Loop 534, at the end of Beach Street, on the City Farm, in the southeast section of Kerrville, Kerr County

**Type of Operation:**

Wastewater treatment facility with an associated wastewater collection system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 13, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,500

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$15,500

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 42530**  
**City of Kerrville**  
**RN100844802**  
**Docket No. 2011-1664-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** April 25, 2011  
**Date(s) of NOE(s):** August 31, 2011

***Violation Information***

Failed to prevent the unauthorized discharge of municipal wastewater from the collection system into water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010576001, Permit Conditions No. 2.g.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures at the Facility:

- a. By April 23, 2011, replaced the pump controller at the Quinlan Lift Station; and
- b. By April 25, 2011, removed and disposed of the dead fish, and cleaned and disinfected the affected area.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Todd Parton, City Manager, City of Kerrville, 800 Junction Highway, Kerrville, Texas 78028  
The Honorable David Wampler, Mayor, City of Kerrville, 800 Junction Highway, Kerrville, Texas 78028  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	6-Sep-2011	<b>Screening</b>	14-Sep-2011	<b>EPA Due</b>	
	<b>PCW</b>	14-Sep-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Kerrville		
<b>Reg. Ent. Ref. No.</b>	RN100844802		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42530	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-1664-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	JR Cao
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	80.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$8,000
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Notes: Enhancement recommended for one NOV with same/similar violations, one order with denial of liability, one order without denial of liability, and six months of self-reported effluent violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$2,500
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$4  
Approx. Cost of Compliance \$10,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$15,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$15,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$15,500
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$15,500
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**Screening Date** 14-Sep-2011  
**Respondent** City of Kerrville  
**Case ID No.** 42530  
**Reg. Ent. Reference No.** RN100844802  
**Media [Statute]** Water Quality  
**Enf. Coordinator** JR Cao

**Docket No.** 2011-1664-MWD-E

**PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 80%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

##### Compliance History Notes

Enhancement recommended for one NOV with same/similar violations, one order with denial of liability, one order without denial of liability, and six months of self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 80%

Screening Date 14-Sep-2011  
Respondent City of Kerrville  
Case ID No. 42530  
Reg. Ent. Reference No. RN100844802  
Media [Statute] Water Quality  
Enf. Coordinator JR Cao  
Violation Number 1

Docket No. 2011-1664-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010576001, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of municipal wastewater from the collection system into water in the state, as documented during an investigation conducted on April 25, 2011. On April 23, 2011, lift station pumps failed to engage, discharging approximately 153,000 gallons of wastewater from a manhole into Quinlan Creek at 1st Street, resulting in a fish kill of approximately 1,157 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed protective levels as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Two daily events are recommended from the date of the discharge (April 23, 2011) to the date of compliance (April 25, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on April 25, 2011.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$15,500

This violation Final Assessed Penalty (adjusted for limits) \$15,500

# Economic Benefit Worksheet

Respondent City of Kerrville  
 Case ID No. 42530  
 Reg. Ent. Reference No. RN100844802  
 Media Water Quality  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	23-Apr-2011	25-Apr-2011	0.01	\$0	\$4	\$4
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the lift station pumps, to clean and disinfect the affected area, and to remove and dispose of the dead fish. Date required is the date of the unauthorized discharge. Final date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$4

## Compliance History

Customer/Respondent/Owner-Operator: CN600522858 City of Kerrville Classification: AVERAGE Rating: 2.49  
Regulated Entity: RN100844802 KERRVILLE WASTEWATER PLT Classification: AVERAGE Site Rating: 1.83

ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER KF0093C  
WASTEWATER PERMIT WQ0010576001  
WASTEWATER EPA ID TX0047333  
Location: 3650 Loop 534, at the end of Beach Street, on the City Farm, in the southeast section of Kerrville, Kerr County, Texas  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: October 5, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 5, 2006 to October 5, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: JR Cao Phone: (512) 239-2543

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 03/05/2007 ADMINORDER 2006-1021-MWD-E  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limits PERMIT  
Description: Failure to comply with permit effluent limits.

Effective Date: 02/22/2009 ADMINORDER 2008-1373-MWD-E  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limits PERMIT  
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/17/2007	(543989)	29	04/20/2007	(926607)
2	04/23/2007	(557766)	30	04/15/2008	(926608)
3	02/20/2007	(580684)	31	04/15/2009	(926609)
4	03/19/2007	(580685)	32	04/06/2010	(926610)
5	09/24/2007	(595305)	33	03/14/2011	(926611)
6	10/09/2007	(596221)	34	05/16/2007	(926613)
7	02/13/2008	(673550)	35	05/14/2008	(926614)
8	06/19/2008	(681873)	36	05/14/2009	(926615)
9	08/07/2008	(687584)	37	05/14/2010	(926616)
10	03/18/2008	(691819)	38	06/08/2007	(926618)
11	12/22/2008	(707029)	39	06/09/2008	(926619)
12	03/20/2009	(739235)	40	06/10/2009	(926620)
13	02/12/2009	(752133)	41	07/18/2007	(926622)
14	03/19/2009	(769866)	42	07/17/2008	(926623)
15	12/01/2010	(865641)	43	03/25/2009	(926624)
16	07/12/2010	(867444)	44	05/01/2007	(926625)
17	08/09/2010	(867445)	45	09/20/2007	(926626)
18	10/20/2010	(874467)	46	08/14/2008	(926627)
19	06/14/2010	(882047)	47	08/31/2009	(926628)
20	11/03/2010	(882048)	48	09/19/2006	(926629)
21	11/29/2010	(888514)	49	09/12/2007	(926630)
22	01/06/2011	(896855)	50	09/08/2008	(926631)
23	01/12/2011	(902813)	51	10/16/2008	(926632)
24	02/16/2011	(909654)	52	01/05/2007	(926633)
25	03/14/2011	(916875)	53	01/08/2008	(926634)
26	08/30/2011	(919468)	54	10/16/2008	(926635)
27	02/19/2010	(926605)	55	10/13/2009	(926636)
28	03/09/2010	(926606)	56	11/16/2006	(926637)



57	11/16/2007	(926638)	64	01/22/2007	(926645)
58	11/14/2008	(926639)	65	10/04/2007	(926646)
59	11/13/2009	(926640)	66	10/07/2008	(926647)
60	12/18/2006	(926641)	67	01/03/2010	(926648)
61	12/18/2007	(926642)	68	05/17/2011	(938589)
62	12/15/2008	(926643)	69	06/17/2011	(945961)
63	12/14/2009	(926644)	70	06/09/2011	(953216)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/30/2006 (926633) CN600522858  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2006 (926637) CN600522858  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (926622) CN600522858  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (691819) CN600522858  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (926608) CN600522858  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/13/2010 (865641) CN600522858  
 Self Report? NO Classification: Moderate  
 Citation: Permit Conditions PERMIT  
 TWC Chapter 26 26.121  
 Description: Failure of the permittee to prevent the unauthorized discharge of wastewater from their collection system.

Date: 02/28/2011 (916875) CN600522858  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF KERRVILLE  
RN100844802**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-1664-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Kerrville ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility with an associated wastewater collection system located at 3650 Loop 534, at the end of Beach Street, on the City Farm, in the southeast section of Kerrville, Kerr County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on April 25, 2011, TCEQ staff documented that on April 23, 2011, lift station pumps failed to engage, discharging approximately 153,000 gallons of wastewater from a manhole into Quinlan Creek at 1st Street, resulting in a fish kill of approximately 1,157 fish.
4. The Respondent received notice of the violations on September 2, 2011.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By April 23, 2011, replaced the pump controller at the Quinlan Lift Station; and
  - b. By April 25, 2011, removed and disposed of the dead fish, and cleaned and disinfected the affected area.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of municipal wastewater from the collection system into water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010576001, Permit Conditions No. 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Fifteen Thousand Five Hundred Dollars (\$15,500) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Fifteen Thousand Five Hundred Dollar (\$15,500) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Fifteen Thousand Five Hundred Dollars (\$15,500) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Kerrville, Docket No. 2011-1664-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

2/2/12  
Date

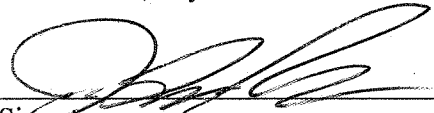
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Kerrville. I am authorized to agree to the attached Agreed Order on behalf of the City of Kerrville, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Kerrville waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

11/21/2011  
Date

TODD BARTON  
Name (Printed or typed)  
Authorized Representative of  
City of Kerrville

CITY MANAGER  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order